

UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
GREAT FALLS DIVISION

THOMAS GILBERT LEHOTSKY,

Plaintiff,

Civil No. 4:21-cv-00098-BMM

-v-

COMMISSIONER OF SOCIAL
SECURITY,

ORDER

Defendant.

Before the Court is the Motion of Plaintiff, Thomas Gilbert Lehotsky, for award of attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). Based on the pleadings as well as the position of the defendant commissioner, and recognizing the Plaintiff's waiver of direct payment and assignment of EAJA to his counsel,

IT IS HEREBY ORDERED that **attorney fees and expenses** in the total amount of Eight Thousand Two Hundred Sixty-Seven Dollars and Thirty-Nine Cents (\$8,267.39) pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d) and **costs** in the amount of Four Hundred Two Dollars (\$402.00) pursuant to 28 U.S.C. § 1920 are awarded to Plaintiff.

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to Olinsky Law Group. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

If the U.S. Department of the Treasury determines that Plaintiff's EAJA fees and expenses are not subject to offset allowed under the Department of the Treasury's Offset Program (TOPS), then the check for EAJA fees, expenses, and costs shall be made payable to Plaintiff's attorney, Eric Rasmusson. Any payment may be made either by electronic fund transfer (ETF) or by check.

Whether the check is made payable to Plaintiff or to Eric Rasmusson, the check shall be mailed to Eric Rasmusson.

Dated this 21st day of February, 2023.

A handwritten signature in blue ink, reading "Brian Morris". The signature is written in a cursive, flowing style.

Brian Morris, Chief District Judge
United States District Court